
**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

ADRIAN CROSS,

Plaintiff,

v.

**UNITED STATES MARSHAL
SERVICE, LLOYD VELLEK, DAVID L.
HARLOW, DAVID ANDERSON, and
UNITED STATES OF AMERICA,**

Defendants.

**ORDER ADOPTING & AFFIRMING
REPORT & RECOMMENDATION**

Case No. 6:18-cv-327-DAK-DBP

Judge Dale A. Kimball

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred it to United States Magistrate Judge Dustin B. Pead under 28 U.S.C. § 636(b)(1)(B).¹

On April 13, 2020, Magistrate Judge Pead issued a Report and Recommendation, recommending that the court grant (1) Defendants' Motion to Dismiss for lack of jurisdiction and failure to state a claim [ECF No. 60] and (2) Plaintiff's Motion to Submit Exhibit as Evidence of Claim [ECF No. 69]. Magistrate Judge Pead also recommended denying Plaintiff's Motion for Evidentiary Hearing [ECF No. 74].

The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. In addition, Magistrate Judge Pead recommended that, if the court adopts the Report and Recommendation, Plaintiff be given fourteen days after being served with the court's decision to file an amended complaint.

¹ This case is before this court pursuant to an out of district referral from United States District Judge Ronald A. White of the Eastern District of Oklahoma with the concurrence of the United States District Court Chief Judge Robert J. Shelby.

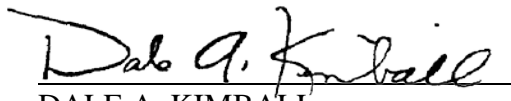
Instead of filing any objections to the Report and Recommendation, Plaintiff filed a motion to amend his complaint [ECF No. 77].²

A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Pead's recommendations. Furthermore, given that Plaintiff failed to submit any objections to the Report and Recommendation, the court finds no reason to set it aside.

Therefore, the court adopts and affirms Magistrate Judge Pead's Report and Recommendation in its entirety. Accordingly, Defendants' Motion to Dismiss for lack of jurisdiction and failure to state a claim [ECF No. 60] and Plaintiff's Motion to Submit Exhibit as Evidence of Claim [ECF No. 69] are hereby GRANTED, and Plaintiff's Motion for Evidentiary Hearing [ECF No. 74] is hereby DENIED. Additionally, Plaintiff shall have fourteen days after being served with a copy of this Order to file an amended complaint.

DATED this 21st day of May, 2020.

BY THE COURT:


DALE A. KIMBALL
United States District Judge

² That motion, however, was premature given that the Report and Recommendation suggested giving Plaintiff the opportunity to amend his complaint only *after* the district court ruled on the Report and Recommendation.